

**REMARKS**

The present invention is a method for gas stunning of animals for slaughter arriving at a slaughter house in transport crates. In accordance with the embodiment of the invention, the method includes gas stunning of animals being achieved while the animals are still in transport crates 6 and where the transport crates and animals are conveyed successively by means of conveyors 18 through a stunning chamber 10 wherein an influence of the gas for stunning the animals is adjusted while the animals are within the stunning gas by shortening or lengthening a conveying time during which the animals travel within the stunning gas and adjusting a length of conveying travelled by the animals within the stunning gas within the transport crates through the stunning chamber. In accordance with the invention, the stunning chamber is divided into a number of horizontal zones, such as 3, where the gas concentration is different and successively higher in the lower zones as described in paragraph [0022] of the Substitute Specification. Adjustment of the length of the conveying route in combination with the speed of the conveyor while the animals are in the stunning gas is used to provide optimum stunning of the animals as described in paragraph [0025] - [0029].

Claims 8-11 stand rejected under 35 U.S.C. §103 as being unpatentable over United States Patent 5,788,564 (Chamberlain) in view of United States Patent 5,487,699 (Tyrrell et al). The Examiner reasons as follows with respect to claim 8

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,788,564 to Chamberlain in view of U.S. Patent No. 5,487,699 to Tyrrell et al.

Referring to claim 8, Chamberlain discloses a method for gas stunning of animals for slaughter arriving at a slaughterhouse, where

the animals are conveyed successively by means of conveyors — at 27,33,34, through a stunning chamber — at 10-18, wherein an influence of gas for stunning the animals is adjusted while the animals are within the stunning gas by shortening or lengthening a conveying time during which the animals travel within the stunning gas — see for example the adjustable drive — at 47 for the conveyor — at 27 in column 3 lines 40-52, and adjusting a length of conveying traveled by the animals within the stunning gas through the stunning chamber — see for example figure 1 where the conveyor — at 27, has inclined ends on each side of a horizontal run where the length of the conveyor is adjusted in that the elevation/incline of the conveyor changes over the course of its length which allows for only parts of the animal to be contacted/effected by the stunning gas when the animal is on the inclined portions of the conveyor and allows for the entire animal to be contacted/effected by the stunning gas. Chamberlain does not disclose the animals arrive at the slaughterhouse in crates and are transported along the conveyor in crates through the stunning chamber. Tyrrell et al. does disclose the animals arrive at the slaughterhouse in crates — at 22, and are transported along the conveyor — at 20,23,24,28,31,32,34, in crates — at 22, through the stunning chamber — at 10 — see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Chamberlain and add the animals being transported through the stunning chamber in crates of Tyrrell et al., so as to allow for the animals to be confined so as to not damage the device, the operators of the device or other animals during the stunning process (emphasis added).

These grounds of rejection are traversed for the following reason.

The Examiner's interpretation of Chamberlain that "adjusting a length of conveying traveled by the animals within the stunning gas through the stunning chamber - see, for example, Fig. 1 where the conveyor - at 27, has inclined ends on each side of a horizontal run where the length of the conveyor is adjusted in that the elevation/incline of the conveyor changes over the course of the length which allows for only parts of the animal to be contacted/effected by the stunning gas when the animal is on the inclined portions of the conveyor and allows for the entire animal to be contacted/effected by the stunning gas" is not an interpretation that would be made by a person of ordinary skill in the art. Specifically, claim 8 calls for the

influence of the gas for stunning the animals to be adjusted both by shortening or lengthening a conveying time and adjusting a length of the conveying route traveled by the animals within the stunning gas within the transport crates through the stunning chamber. The Examiner's interpretation of Chamberlain as suggesting that the inclination of the conveyor at 27 is adjustable to adjust a length of conveying route travelled by the animals within the stunning gas within the transport crates through the stunning chamber to adjust an influence of the stunning gas is clearly contrary to the actual operation of how stunning is performed which involves a feed length.

The Examiner is engaged in an erroneous construction of the operation of Chamberlain since there is no indication that even if the inclination of infeed and outfeed conveyors were changed, that it would be utilized to cause an adjustment of the conveying length of animals in the stunning chamber to have "influence of the gas for stunning the animals". As may be seen, only a small portion of the inclined portion of the conveying route is within the gas which is identified by a dotted line which marks the top of chamber 36 which is described in column 3, lines 18-22, as being approximately three feet in depth.

Any change in the length of the infeed and outfeed conveyors below the dotted line in Fig. 3, which is caused by a change in inclination, would not constitute an adjustment of the influence of gas for stunning the animals as recited in the claims in accordance with shortening or lengthening the conveying time and adjusting of length of the conveying route traveled by the animals.

The secondary reference of Tyrell et al, while showing animals being confined in crates, does not cure the deficiencies noted above with respect to Chamberlain.

Accordingly, if the proposed combination of Chamberlain and Tyrell et al were made, the subject matter of claims 8-11 would not be achieved.

Claims 10 and 11 further limit claim 8 in reciting that the adjustment of the length of conveying through the stunning chamber is achieved by lowering or lifting a substantially horizontal conveyor running therein, which conveyor provides for the conveying of the transport crates through the stunning chamber within the gas for stunning between a downwards running conveyor and an upwards running conveyor.

There is no disclosure in either Chamberlain or Tyrell et al of this matter since there is no indication that even the inclination of the conveying infeed and outfeed conveyors is variable in Chamberlain and moreover, there is no indication of any lowering or lifting of a substantially horizontal conveyor running therein.

Claims 12-15 stand rejected under 35 U.S.C. §103 as being unpatentable over Chamberlain as modified by Tyrrell et al further in view of WO 94/27425 to Jull et al. These grounds of rejection are traversed for the same reasons as set forth above in the September 21, 2005 Amendment as discussed on pages 22 and 23.

Claims 16-31 stand rejected under 35 U.S.C. §103 as being unpatentable over Chamberlain as modified by Tyrrell et al or Chamberlain as modified by Tyrrell et al and Jull et al as applied to claims 8-15. The rejection of claims 16-31 is traversed for the same reasons set forth on pages 23-25 of the aforementioned September 21, 2005 Amendment.

Claims 32-40 stand rejected under 35 U.S.C. §103 as being unpatentable over Tyrrell et al or Chamberlain as modified by Tyrrell et al and Jull et al as applied to claims 16-23 further in view of United States Patent 5,902,177 (Tessier et al).

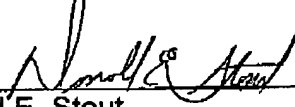
These grounds of rejection are traversed for the same reasons set forth on pages 25 and 26 of the aforementioned September 21, 2005 Amendment.

In view of the foregoing remarks, it is submitted that each of the claims in the application is in condition for allowance. Accordingly, early allowance thereof is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (900.43156X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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Attachments

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